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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/858,415	05/16/2001	Jeffrey Jonathan Spurgat	11748/17	2468

7590

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John S. Paniaguas  
KATTEN MUCHIN ZAVIS  
Suite 1600  
525 West Monroe Street  
Chicago, IL 60661

EXAMINER

BEHULU, ALEMAYEHU

ART UNIT	PAPER NUMBER
2682	2

DATE MAILED: 04/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/858,415

Applicant(s)

SPURGAT ET AL.

Examiner

Alemayehu Behulu

Art Unit

2682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Janik (U.S. Pub No. 2002/0164973).

Regarding claim 1, Janik discloses a local wireless communication network for digital audio players (figure 1), the network comprising: a host (figure 1, number 18, paragraphs [0046]-[0049]); a first wireless communication platform coupled to said host (figure 1, number 30); and one or more digital audio players having a second wireless communication platform coupled to each of said one or more digital audio players for establishing a communication link between said host and said one or more digital audio players (figure 1, numbers 42, 114, 34).

Regarding claim 2, Janik discloses the network as recited in claim 1, wherein said host and said first wireless communication platform are configured as a gateway (paragraph [0049], [0090],[0126],[0132]).

Regarding claim 3, Janik discloses the network as recited in claim 2, wherein said host is a personal computing platform (paragraphs [0046]-[0049]).

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Regarding claim 4, Janik discloses the network as recited in claim 2, wherein said host is a set top box (paragraphs [0005], [0043], [0090]).

2. Claim 6 is rejected under 35 U.S.C. 102(e) as being anticipated by Treyz (U.S. Patent No. 6, 678, 215).

Regarding claim 6, Treyz discloses a local wireless communication network for digital audio players (figures 1-3), the network comprising: one or more digital audio players (figures 1-3, numbers 12, 12a-12f); and one or more wireless communication platforms (figures 1-3, number 18 and 52), said one or more wireless communication platforms coupled to said one or more digital audio players (figures 1-3, numbers 18, 52, 12, 12a-12f, column 9, lines 44-column 12, lines 45) for establishing a communication link between at least two of said one or more digital audio players (column 10, lines 67-column 11, lines 8).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Janik (U.S. Pub No. 2002/0164973) in view of Treyz (U.S. Patent No. 6, 678, 215).

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Regarding claim 5, Janik discloses the network as recited in claim 2. However, Janik fails to disclose host is a stand-alone audio gateway. But, Treyz discloses stand-alone gateway (figure 2, number 45, column 10, lines 37-65). Therefore, at the time of the invention it would have been obvious to a person of ordinary skill in the art to combine Janik with Treyz in order to facilitate smooth communication between the device and the network server.

### *Conclusion*

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Balog et al. (U.S. Pub. No. 2002/0022453) Dynamic Protocol Selection and Routing of Content to Mobile Devices

Bi et al. (U.S. Pub. No. 2002/0087996) Interactive Remote Control of Audio or Video Playback and Selections

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alemayehu Behulu whose telephone number is 703-305-4828.

The examiner can normally be reached on 8 AM - 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 703-308-6739. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AB

*Nguyen Vo*  
*3-29-2014*

**NGUYENT.VO**  
**PRIMARY EXAMINER**